FIFTEENTH REPORT

STANDING COMMITTEE ON LABOUR AND WELFARE (1995-96)

(TENTH LOK SABHA)

THE TRADE UNIONS (AMENDMENT) BILL, 1994

Presented to Lok Sabha on ..... 8 AUG
Laid in Rajya Sabha on .....

LOK SABHA SECRETARIAT
NEW DELHI 8 AUG

July, 1995/Asadha, 1917 (Saka)

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(1995-96)

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4. Shri R.S. Misra – *Under Secretary*

INTRODUCTION

I, the Chairperson of the Standing Committee on Labour and Welfare (1995-96) having been authorised by the Committee to submit the Report on their behalf, present this Fifteenth Report on 'The Trade Unions (Amendment) Bill, 1994 of the Ministry of Labour.

2. The Bill was referred to the Committee by Hon'ble Speaker, Lok Sabha on 9th May, 1994 under Rule 331 E(b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and Report.

3. The Committee considered the Bill clause by clause at their Sittings held on 29 and 30 May, 1995. The Report was considered and adopted by the Committee on 3 July, 1995.

4. The Committee wish to express their thanks to the officers of the Ministry of Labour for placing before them detailed written notes on the subject and for furnishing the information the Committee desired in connection with the examination of the Bill.

NEW DELHI;
July 28, 1995
Sravana 6, 1917 *(Saka)*

CHANDRA PRABHA URS,
Chairperson,
Standing Committee on
Labour and Welfare.

CHAPTER I

INTRODUCTORY

The Ministry of Labour informed the Committee that The Trade Unions Act, 1926 provides for registration of Trade Unions of employers and workmen. A Bill, namely, the Trade Unions and Industrial Disputes (Amendment) Bill, 1988, was introduced in the Rajya Sabha to amend, *inter alia*, the Trade Unions Act, 1926. The said Bill was withdrawn in 1990 and a bipartite committee with a term of reference "formulation of specific proposals for a new Industrial Relations Bill" comprising representatives of employers' organisations and Central Trade Unions, was constituted under the Chairmanship of Shri G. Ramanujam.

2. The Ramanujam Committee submitted its report in October, 1990. The thrust of the recommendations was aimed at reducing multiplicity of Trade Unions, promoting internal democracy and facilitating their orderly growth and regulation. The report of the Committee was considered in a conference of State Labour Ministers in 1992. The said report was subsequently scrutinised by a Committee of five State Labour Ministers, the Standing Labour Committee and the Indian Labour Conference.

3. Keeping in view the recommendations made by the Ramanujam Committee and subsequent deliberations thereon by the aforesaid Committees, the Trade Unions (Amendment) Bill, 1994 was introduced in Rajya Sabha in May, 1994.

4. The important provisions of the Bill are:

(i) Section 4 is being amended with a view to making an additional provision that minimum number of members for registration of a Trade Union shall be ten per cent of the workmen engaged or employed in an establishment or industry with which it is connected. The existing Trade Unions shall have to muster the required strength within six months of the commencement of the proposed legislation, failing which their registration shall be deemed to have been cancelled.

(ii) Section 6 is being amended to provide that:

(a) the minimum rate of subscription for the member of a Trade Union shall be rupee one;

(b) the duration, not being more than three years, for which the members of the executive and other office-bearers shall be elected.

(iii) Section 22 is being substituted to provide that:

(a) the number of office-bearers who are not connected with the establishment or industry with which the Trade Union is connected, shall be restricted to one third of the total number of such office bearers or two, whichever is less.

(b) a Minister or any other person, subject to certain exceptions, holding an Office of Profit in the Union or a State shall be ineligible to become office bearer of a Trade Union.

CHAPTER II

REPORT

Clause 2 of the Bill

Clause 2 of the Trade Unions (Amendment) Bill, 1994 provides that in Section 4 of the Trade Unions Act, 1926 (hereinafter referred to as the Principal Act) to sub-section (1) the following provision shall be added, namely:–

> "Provided that no Trade Union of workmen shall be registered unless atleast ten per cent of workmen engaged or employed in the establishment or industry with which it is connected are on the date of making of application for registration the members of such Trade Union."
>
> "Provided further that the certificate of registration of a registered Trade Union of workmen issued before the commencement of the Trade Unions (Amendment) Act, 1994 shall be deemed to have been cancelled after six months of such commencement unless an application for its continuance along with a list of its members is made by the Trade Union before the expiry of six months after such commencement claiming that at least ten per cent of the workmen engaged or employed in the establishment or industry with which it is connected are, on the date of making of such application, its members."

2.2 The Committee felt that this is nothing but a virtual denial of the right to form a trade union. The condition of minimum membership of 10% of workmen at the time of formation of the trade union particularly in big establishments, was seen as an unreal and difficult proposition.

2.3 The Committee recommend that clause 2 of the Bill may be amended as:–

> **"Provided that no Trade Union of workmen shall be registered unless at least ten per cent of workmen engaged or employed in the establishment or industry with which it is connected, or 100 whichever is less, are, on the date of making of application for registration, the members of such Trade Union and in no case shall a Union be registered without a minimum strength of at least seven members."**

"Provided further that the certificate of registration of a registered Trade Union of workmen issued before the commencement of the Trade Unions (Amendment) Act, 1994 shall be deemed to have been cancelled after six months or such extended time as may be granted by the Registrar of such commencement unless an application for its continuance along with a list of its members is made by the Trade Union before the expiry of six months after such commencement claiming that at least ten per cent of the workmen or 100 whichever is less (subject to a minimum of 7) engaged or employed in the establishment or industry with which it is connected are, on the date of making of such application, its member."

Clause 3 of the Bill

2.4 Clause 3 of the Bill provides that in Section 5 of the Principal Act, in sub-section (1) after clause (a), the following clause shall be inserted, namely:–

"(aa) in case of a Trade Union of workmen,–

(i) the names, occupations and addresses of the members of the Trade Union.

(ii) the names, occupations and addresses of the workmen engaged or employed in the establishment or industry with which it is connected.

2.5 This clause evoked considerable apprehension amongst the Members of the Committee. They felt that according to the existing provision of the Principal Act any seven members of a Trade Union can apply for registration and for that the requirement is to submit the names, occupations and addresses of the applicants alongwith the application. The Members also observed that even the Ramanujam Committee was opposed to any such change which might make the process of registration of the Trade Unions complicated and cumbersome. Moreover, they expressed doubt over the feasibility of a State based or Country based Trade Union being in a position to furnish such detailed particulars of thousands or even hundreds of workmen.

2.6 The Committee, are of the view that the proposed amendments (aa)(i) in Section 5 (1)(a) of the Principal Act may be amended as follows:–

(aa) In case of Trade Unions of workmen,–

(i) the names, occupations and complete addresses of the place of work of the members of the Trade Union.

2.7 In the light of the amendments suggested by the Committee, sub clause (ii) of 3(aa) becomes redundant. The Committee, therefore, desire that sub clause (ii) of 2 (aa) may be deleted.

Clause 4 of the Bill

2.8 Clause 4 of the Bill Provides that in section 6 of the principal Act;

(a) in clause (cc), for the words "not less than twenty-five naye paise" the words "one rupee" shall be substituted;

(b) in clause (h), for the word "appointed", the word "elected" shall be substituted;

(c) after clause (h), the following clauses shall be inserted, namely:–

"(hh) the duration not being more than three years, for which the members of the executive and the other office-bearers of the Trade Union shall be elected;

(hhh) the settlement of intra-union disputes."

2.9 There was a considerable discussion on the sub-clause (a) amongst the members of the Committee. Members were apprehensive over the increase in the rate of subscription. Some of the members were of the firm view that there should not be any change in the existing rate of subscription as it would be difficult to realise it from some of the poor members of the Union.

2.10 The Committee also discussed the clause (hhh) in detail. The Members were of the view that all intra-union disputes should be referred to the National Trade Union Centre to which the union is affiliated and unions should be made powerful to take a final decision in such matters. They were also of the view that since intra-union matters are internal matters of the union, it may not be appropriate for the Government to interfere in them.

Clause 5 of the Bill

2.11 Clause 5 of the Bill provides that after section 9 of the Principal Act, the following section shall be inserted, namely:–

"9A. A registered Trade Union of workmen shall at all times continue to have not less than ten per cent of the workmen engaged or employed in an establishment or industry with which it is connected as its members."

2.12 In the light of earlier discussions, the Committee decided that the clause 9A should read as under:–

> **"A registered Trade Union of workmen shall at all times continue to have not less than ten per cent of the workmen or 100 workmen whichever is less, engaged or employed in an establishment or industry with which it is connected as its members".**

Clause 6 of the Bill

2.13 Clause 6 of the Bill provides that in section 10 of the Principal Act, after clause (b), the following clause shall be inserted, namely:-

> "(c) if the Registrar is satisfied that a registered Trade Union of workmen ceases to have the requisite number of members."

2.14 The Committee felt that clause 6 of the Bill proposes to give enormous powers to the Registrar of Trade Unions to cancel the certificate of registration of a Trade Union. The members were of the view that in this regard, even the recommendation of the Ramanujam Committee has been ignored. They were also of the view that there should be some time limit for the Registrar to dispose of the application for registration of a Trade Union. **The Committee, suggest that Rules may be framed under the Act providing some time limit for the Registrar to dispose of the applications.**

Clause 7 of the Bill

2.15 Clause 7 of the Bill provides that for section 22 of the Principal Act, the following section shall be substituted, namely:–

> (i) "22(1) All office-bearers of a registered Trade Union, except not more than one third of the total number of the office bearers or two, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected."

2.16 This clause was discussed in detail. In view of the Committee, the Bill proposes to restrict the number of outsiders to two which was unreasonable. The Committee felt that the proposed amendment is an infringement on the right of workers to choose their own leaders. The Committee further observed that the definition of outsider given in the Principal Act has not been changed and ex-employees will, therefore, continue to be considered as outsiders which was also not a desirable practice.

2.17 The Committee, therefore, recommend that in the proposed clause 22(1) the word 'two' may be substituted by 'five'. The Committee also desire that following explanation may be added after clause 22(1).

Explanation: "The employees who have honourably retired or have been retrenched should not be deemed to be outsiders for the purpose of holding an office in Trade Unions."

NEW DELHI;
July 28, 1995
Sravana 6, 1917(S)

CHANDRA PRABHA URS,
Chairperson
Standing Committee on
Labour and Welfare

ANNEXURE

MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE ON LABOUR AND WELFARE HELD ON 3 JULY, 1995

The Committee met from 11.00 hrs. to 13.00 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shrimati Chandra Prabha Urs – *Chairperson*

MEMBERS

Lok Sabha

2. Shri D.K. Naikar
3. Shri Bheru Lal Meena
4. Dr. Chinta Mohan
5. Shri Ramesh Chennithala
6. Shri Dattatraya Bandaru
7. Prof. Rasa Singh Rawat
8. Shri Ram Narain Berwa
9. Shri Shiv Raj Singh Chauhan
10. Shri Mahendra Baitha
11. Shri Ajoy Mukhopadhyay
12. Shri Rup Chand Murmu
13. Shri Vishwanath Shastri
14. Dr. R. Sridharan
15. Shri Anadi Charan Das

Rajya Sabha

16. Smt. Vidya Beniwal
17. Shri Gundappa Korwar
18. Shri Kameshwar Paswan

19. Shri Ram Ratan Ram
20. Shri Jibon Roy
21. Shri B.K. Hariprasad
22. Shri Mool Chand Meena

SECRETARIAT

1. Shri Satish Loomba – *Deputy Secretary*
2. Shri R.S. Misra – *Under Secretary*

REPRESENTATIVES OF THE MINISTRY OF LABOUR

1. Shri S. Gopalan – *Secretary*
2. Shri Abhik Ghosh – *Joint Secretary*
3. Shri Surendra Nath – *Chief Labour Commissioner*

2. Thereafter, the Committee took up the Draft Fifteenth Report on the Ministry of Labour – The Trade Unions (Amendment) Bill, 1994 for consideration and adopted the same with following modifications:

Para No.	Line	Amendments made
2.3	Last line	At the end of para add:– 'and in no case shall a union be registered without a minimum strength of at least seven members.'
2.4	4	After 'Six months' add 'or such extended time as may be granted by the Registrar'
2.7	5	Remove 'and addresses of the members of the Trade Union alongwith the names'
		After 'work' add:– 'of the members of the Trade Unions'

The Committee authorised the Chairperson to finalise the Reports in the light of above amendments and present the same to the Parliament.

The Committee then adjourned.

APPENDIX

Summary of Recommendations/Conclusions

S. No.	Para No.	Summary of Recommendations/Conclusions
1.	2.3	The Committee recommend that clause 2 of the Bill may be amended as under: "Provided that no Trade Union of workmen shall be registered unless at least ten per cent of workmen engaged or employed in the establishment or industry with which it is connected, or 100 whichever is less, are, on the date of making of application for registration, the Members of Such Trade Union and in no case shall a Union be registered without a minimum strength of at least seven members. "Provided further that the certificate of registration of a registered Trade Union of workmen issued before the commencement of the Trade Unions (Amendment) Act, 1994 shall be deemed to have been cancelled after six months or such extended time as may be granted by the Registrar of such commencement unless an application for its continuance alongwith a list of its members is made by the Trade Union before the expiry of six months after such commencement claiming that at least ten per cent of the workmen or 100 whichever is less (subject to a minimum of 7) engaged or employed in the establishment or industry with which it is connected are, on the date of making of such application its member."
2.	2.6	The Committee are of the view that the proposed amendments (aa) (i) in Section 5 (1)(a) of the Principal Act may be amended as follows: (aa) in case of Trade Unions of workmen,– (i) the names, occupations and complete addresses of the place of work of the members of the Trade Union.

S. No.	Para No.	Summary of Recommendations/Conclusions
3.	2.7	The Committee desire that sub clause (ii) of 2(aa) may be deleted.
4.	2.10	The Committee recommend to delete the clause.
5.	2.12	The Committee decided that the clause 9A should read as under: "A registered Trade Union of workmen shall at all times continue to have not less than ten per cent of the workmen or 100 workmen whichever is less, engaged or employed in an establishment or industry with which it is connected as its members."
6.	2.14	The Committee suggest that Rules may be framed under the Act providing some time limit for the Registrar to dispose of the applications.
7.	2.17	The Committee recommend that in the proposed clause 22(1) the word 'two' may be substituted by 'five'. The Committee also desire that following explanation may be added after clause 22(1) Explanation: "The employees who have honourably retired or have been retrenched should not be deemed to be outsiders for the purpose of holding an office in Trade Unions."